

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

)	
In re:)	
)	
LECLAIRRYAN PLLC,)	
)	
Debtor.)	Chapter 7
)	Case No. 19034574 (KRH)
)	
LYNN L. TAVENNER, CHAPTER 7)	
TRUSTEE,)	
)	
Plaintiff,)	
)	
vs.)	Adv. Proc. No. 21-03062 (KRH)
)	
THOMAS H. CURRAN,)	
)	
Defendant.)	
)	

ANSWER TO ADVERSARY COMPLAINT

Defendant Thomas H. Curran (“Defendant” or “Curran”) hereby answers the Adversary Complaint filed by plaintiff Lynn L. Tavenner, as Chapter 7 Trustee (“Plaintiff” or “Trustee”) in this action (the “Complaint”) and further asserts his affirmative defenses as follows.

INTRODUCTION

1. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof. Answering further, Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant leaves Plaintiff to her proof and denies that Plaintiff has any right to relief against him.

2. Defendant denies the allegations contained in this paragraph of the Complaint.

3. Defendant denies the allegations contained in this paragraph of the Complaint.

4. The allegations contained in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

JURISDICTION, VENUE, AND LEGAL PREDICATE

5. The allegations contained in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

6. The allegations contained in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

7. The allegations contained in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

PARTIES

8. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

9. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

10. Defendant admits only that he was a shareholder of the Debtor from February 21, 2014, through February 26, 2016. Defendant lacks knowledge or information sufficient to form

a belief about the truth of the remainder of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

11. The allegations contained in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

12. The allegations contained in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

FACTUAL BACKGROUND

A. The Formation, Structure, and Conversion of the Debtor

13. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

14. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

B. The Debtor's Downfall

a. The Debtor's Financial Mismanagement

15. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

16. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

17. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

18. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations concerning the “Firm’s financials” being kept “secret” from “all shareholders” and leaves Plaintiff to her proof regarding the remaining allegations of this paragraph of the Complaint and thereby denies same.

19. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof. Answering further, Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of a document, which document speaks for itself.

20. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

21. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations concerning the “Debtor’s shareholders” and leaves Plaintiff to her proof regarding the remaining allegations of this paragraph of the Complaint and thereby denies same.

22. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations concerning the “Debtor’s shareholders” and leaves Plaintiff to her proof regarding the remaining allegations of this paragraph of the Complaint and thereby denies same.

23. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

24. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof. Answering further, Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of a document, which document speaks for itself.

25. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof. Answering further, Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of a document, which document speaks for itself.

26. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof. Answering further, Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of a document, which document speaks for itself.

27. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof. Answering further, Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of a document, which document speaks for itself.

28. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

b. Utilizing CAPE Funds for General Operations

29. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

30. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

31. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

32. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

33. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations concerning the “Debtor’s shareholders” and leaves Plaintiff to her proof regarding the remaining allegations of this paragraph of the Complaint and thereby denies same.

c. Reliance on Preferred Stock to Fund Operations

34. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

35. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof. Answering further, Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of a document, which document speaks for itself.

36. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

37. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

d. Decreasing Revenues and Utilizing Accounts Payable as a Line of Credit

38. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

39. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

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42. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

43. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations concerning the “Debtor’s shareholders” and leaves Plaintiff to her proof regarding the remaining allegations of this paragraph of the Complaint and thereby denies same.

e. Shrinking Headcount and Loss of Shareholders

44. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

45. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

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50. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

f. The Debtor's Dissolution

51. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

52. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

53. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

C. Shareholder and Member Compensation Paid Pursuant to Shareholder Agreements, Board Resolutions, and Compensation Policies

54. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

a. Shareholder Agreements

55. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of a document, which document speaks for itself. To the extent a response is required, Defendant leaves Plaintiff to her proof.

56. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of a document, which document speaks for itself. To the extent a response is required, Defendant leaves Plaintiff to her proof.

b. Board Resolutions

57. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. To the extent a response is required, Defendant leaves Plaintiff to her proof.

58. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of a document, which document speaks for itself. To the extent a response is required, Defendant leaves Plaintiff to her proof.

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60. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. To the extent a response is required, Defendant leaves Plaintiff to her proof.

c. Compensation Policies

61. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. To the extent a response is required, Defendant leaves Plaintiff to her proof.

62. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. To the extent a response is required, Defendant leaves Plaintiff to her proof.

63. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. To the extent a response is required, Defendant leaves Plaintiff to her proof.

64. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. Answering further, Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant leaves Plaintiff to her proof.

i. Compensation Policy

65. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. Answering further, Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant leaves Plaintiff to her proof.

66. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. To the extent a response is required, Defendant leaves Plaintiff to her proof.

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law to which no response is required. To the extent a response is required, Defendant leaves Plaintiff to her proof.

68. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

69. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. Answering further, Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

70. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. Answering further, Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant leaves Plaintiff to her proof.

71. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. Answering further, Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant leaves Plaintiff to her proof.

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law to which no response is required. To the extent a response is required, Defendant leaves Plaintiff to her proof.

73. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

74. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. Answering further, Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

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78. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

79. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. To the extent a response is required, Defendant leaves Plaintiff to her proof.

80. Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

ii. 2015 Compensation Policy

81. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. Answering further, Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant leaves Plaintiff to her proof.

82. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. To the extent a response is required, Defendant leaves Plaintiff to her proof.

83. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. Answering further, Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

84. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. To the extent a response is required, Defendant leaves Plaintiff to her proof.

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86. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. To the extent a response is required, Defendant leaves Plaintiff to her proof.

87. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

88. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. Answering further, Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

89. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. Answering further, Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

iii. 2016 Compensation Policy

90. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. Answering further, Defendant states that the allegations in this paragraph of the Complaint contain conclusions of

law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

91. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. To the extent a response is required, Defendant leaves Plaintiff to her proof.

92. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. Answering further, Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant leaves Plaintiff to her proof.

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96. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. To the extent a response is required, Defendant leaves Plaintiff to her proof.

iv. Wells Fargo Cash Covenant and Cash Covenant Payments

97. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. Answering further, Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

98. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

99. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. Answering further, Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof. Answering further, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

100. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

101. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph of the Complaint and, therefore, leaves Plaintiff to her proof.

102. Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

103. Defendant states that the allegations contained in this paragraph of the Complaint refer to the contents of documents, which documents speak for themselves. Answering further, Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

104. Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

CLAIMS FOR RELIEF

COUNT I

105. Defendant repeats and re-asserts his preceding answers to all of the allegations of the Complaint, as if set forth herein.

106. Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

107. Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

108. Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

109. Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

110. Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

111. Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant leaves Plaintiff to her proof.

112. Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

COUNT II

113. Defendant repeats and re-asserts his preceding answers to all of the allegations of the Complaint, as if set forth herein.

114. Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

115. Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

116. Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

COUNT III

117. Defendant repeats and re-asserts his preceding answers to all of the allegations of the Complaint, as if set forth herein.

118. Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

119. Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

120. Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

121. Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

122. Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

123. Defendant states that the allegations in this paragraph of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant denies same and leaves Plaintiff to her proof.

PRAYER

Defendant states that the allegations in this Section of the Complaint contain conclusions of law to which no response is required. To the extent a response is required, Defendant leaves Plaintiff to her proof and denies that Plaintiff has any right to relief against him.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all claims so triable.

AFFIRMATIVE DEFENSES

First Affirmative Defense

As his first affirmative defense, Defendant states that Plaintiff has failed to state a claim upon which relief can be granted.

Second Affirmative Defense

As his second affirmative defense, Defendant states that Plaintiff cannot recover on her claims because she has unclean hands.

Third Affirmative Defense

As his third affirmative defense, Defendant states that Plaintiff is estopped from recovering against Defendant.

Fourth Affirmative Defense

As his fourth affirmative defense, Defendant states that Plaintiff's claims are barred under the doctrine of *in pari delicto*.

Fifth Affirmative Defense

As his fifth affirmative defense, Defendant states that Plaintiff cannot recover against Defendant under the doctrine of laches.

Sixth Affirmative Defense

As its sixth affirmative defense, Defendant states that Plaintiff cannot recover against Defendant on the basis of waiver.

Seventh Affirmative Defense

As his seventh affirmative defense, Defendant states that Plaintiff cannot recover against Defendant on the basis of her own fraud.

Eighth Affirmative Defense

As his eighth affirmative defense, Defendant states that Plaintiff cannot recover against Defendant on the basis that some or all of her claims are barred by the applicable statute of limitations and/or statute of repose.

Ninth Affirmative Defense

As his ninth affirmative defense, Defendant states the Court lacks subject matter jurisdiction over some or all of the claims alleged herein.

TenthAffirmative Defense

As his tenth affirmative defense, Defendant states that some or all of the claims alleged herein are non-core claims upon which the Court cannot enter final judgment.

Eleventh Affirmative Defense

As his eleventh affirmative defense, Defendant states that Plaintiff has failed to plead her claims alleging fraud with particularity as required by Fed. R. Civ. P. 9(b) made applicable herein by Fed. R. Bankr. 7009.

Twelfth Affirmative Defense

As his twelfth affirmative defense, Defendant states that any liability or damages claimed against him is due to the acts, omissions and conduct of other parties, not Defendant.

Thirteenth Affirmative Defense

As his thirteenth affirmative defense, Defendant states that Plaintiff cannot recover against Defendant on the basis that Plaintiff has failed to join indispensable parties as required by Fed. R. Civ. P. 19.

In addition to the foregoing affirmative defenses, Defendant reserves the right to assert such other additional affirmative defenses as he may assert based upon discovery or other facts that are adduced during the prosecution of this case.

WHEREFORE, defendant Thomas H. Curran respectfully prays for relief as follows:

- A. That judgment enter in favor of Defendant on all counts of the Complaint;
- B. That the Complaint be dismissed with prejudice and on the merits;
- C. That Defendant be awarded his costs and attorneys' fees to the extent permitted by applicable law; and
- D. That Defendant be awarded such other or further relief as the Court deems just and proper.

Respectfully Submitted,

THOMAS H. CURRAN

By his attorneys,

/s/ Lawrence J. Quinn

Lawrence J. Quinn (VSB No. 43119)
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/s/ Peter Antonelli

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Christopher Marks (*pro hac vice pending*)
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Curran Antonelli, LLP
Ten Post Office Square, Suite 800 South
Boston, MA 02109
Telephone: (617) 207-8670
Fax: (617) 850-9001

Dated: November 8, 2021

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of November, 2021, a copy of the foregoing document was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Lawrence J. Quinn

Lawrence J. Quinn